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PATENT APPLICATION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re reissue application of

Charles F. Pyne

Group Art Unit: 2155

Application No. 09/512,967

Filed: February 24, 2000

For: **REMOTE FILE TRANSFER
METHOD AND APPARATUS**

Date: January 23, 2002

Examiner: David A. Wiley

I HEREBY CERTIFY THAT THIS CORRESPONDENCE
IS BEING DEPOSITED WITH THE UNITED STATES
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WASHINGTON, DC 20231

ON: January 23, 2002

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RESPONSE

FEB 27 2002

Technology Center 2100

TO THE COMMISSIONER FOR PATENTS:

This responds to the October 3, 2001 Office action. Claims 1-39 are in the application, of which claims 1, 5, 13, 16, 18, 21, 22, 24, 25, 26, 32, 33, and 37 are in independent form.

Claims 1-39 stand rejected under 35 USC § 102(e) for anticipation by Harlan U.S. Patent No. 6,076,084 ("084 patent"). Applicant responds by submitting a 37 CFR §1.131 Declaration of Charles F. Pyne ("Rule 131 declaration") to establish completion in the United States of the inventions claimed in the above-identified reissue patent application on a date before January 3, 1994, the effective date of the '084 patent. The effective date of the application for the original U.S. Patent No. 5,721,907, of which the above-identified patent application seeks reissue, is January 14, 1994, only 11 days after the January 3, 1994 effective date of the '084 patent. Charles F. Pyne, the person making this declaration, is the inventor named on the above-identified reissue patent application.

To establish that the date of conception of the invention disclosed in the above-identified application precedes January 3, 1994, the Rule 131 declaration

presents Exhibits A and B as evidence. As indicated in the Rule 131 declaration, Exhibits A and B were dated before January 3, 1994, but the dates have been intentionally obscured during the reproduction process. Traveling Software, Inc., to which references are made in Exhibits A and B, is a predecessor company to the assignee of this patent application.

Exhibit A, entitled "File Delta Algorithm Details," includes three typewritten pages on which handwritten notes and drawings appear and one page of hand-drawn block diagrams. Exhibit A is a design summary document that records information that Mr. Pyne either wrote or orally conveyed to a Traveling Software, Inc. employee, who then prepared the document. Exhibit A describes the steps and algorithms involved in one implementation of a method of copying a source file located at a first computer into a reference file located at a second computer.

Exhibit B is a letter dated before January 3, 1994 from Megan Cate of Traveling Software, Inc., to its then patent attorney, Bruce O'Connor, requesting that a patentability search be performed on the File Data Concept implemented with the File Data Algorithm. The letter sets forth a brief description of the subject matter of Exhibit A. Exhibit B generally describes (1) the technological state of the art of file data transfer when the letter was written and (2) a method of identifying and isolating the differences in content between two files and of transmitting only the differences in content from a first computer to a second computer.

Applicant contends that Exhibits A and B establish that the inventions disclosed and claimed in the above-identified reissue patent application were conceived and first reduced to practice in the United States before January 3, 1994. This contention is confirmed by the first sentence in the fifth paragraph on page 4 of Exhibit A, which states: "In [obscured date] the File Delta algorithm was implemented as part of a working demonstration prototype running under Microsoft Windows." The obscured date is before January 3, 1994. The Rule 131 declaration removes the '084 patent as a reference and, therefore, renders moot the anticipation rejection of all pending claims.

Applicant believes his application to be in condition for allowance and respectfully requests the same.

Respectfully submitted,

Charles F. Pyne

By Paul S. Angello
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TRANSMITTAL LETTER

TO THE COMMISSIONER
FOR PATENTS:

Enclosed for filing in the above-referenced application are the following:

- ☒ Response
- ☒ 37 CFR § 1.131 Declaration of Charles F. Pyne
(including Exhibits A and B)
- ☒ Return Receipt Postcard

The Commissioner is hereby authorized to charge any additional fees which may be required in connection with filing of these papers, or credit overpayment, to Account No. 19-4455. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Charles F. Pyne

By Paul S. Angello
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